had a lien or other interest in the property. *Austin* v. *Barrows*, 41 Conn. 287; *Farmer* v. *Shannon*, 8 N. Y. St. Rep. 131; *Lamb* v. *Stone*, 11 Pick. (Mass.) 527. But in the former, it is enough that the creditor changed his position because of and relying on the misrepresentation. *Alexander* v. *Church*, 53 Conn. 561; *N. Y. Land Co.* v. *Chapman*, 118 N. Y. 288; *Fottler* v. *Moseley*, 185 Mass. 563. Failure to distinguish these two kinds of cases has led in the present case to the error which two neighboring states have avoided. See *Alexander* v. *Church*, *supra*; *N. Y. Land Co.* v. *Chapman*, *supra*. The difficulty of assessing damages is not a sufficient reason for refusing recovery in an otherwise good cause of action. It is for the jury to determine the damages, however difficult this may be. *Hunt Co.* v. *Boston Elevated Ry. Co.* 199 Mass. 220.

EQUITY — JURISDICTION — BILL BY ONE ON BEHALF OF MANY FOR DISTRIBUTION OF LIMITED FUND. — The plaintiff brought a bill on behalf of himself and all the other victims of embezzlement by X to recover against the surety on a bond given by X. The total amount alleged to be embezzled exceeded the penalty on the bond. *Held*, that the bill will lie. *Guffanti* v. *National Surety Co.*, 196 N. Y. 452.

The court rightly bases its decision on the jurisdiction of equity to administer a limited fund to which there are claims more than sufficient to exhaust the fund; or which will be dissipated if creditors having conflicting claims are restricted to their legal remedies. *Dimmick* v. *Register*, 92 Ala. 458; *National Park Bank* v. *Goddard*, 62 Hun (N. Y.) 31. It is upon this same principle that equity appoints receivers. KERR, RECEIVERS, Ch. I. The bill lies at the suit either of the claimants, or of the holder of the fund. *Dauler* v. *Hartley*, 178 Pa. St. 23; *American Surety Co.* v. *Lawrenceville Cement Co.*, 96 Fed. 25. It may also be brought, as in the principal case, by one claimant on behalf of himself and all others interested. *Crowell* v. *Cape Cod Ship Canal Co.*, 164 Mass. 235. In such a case, however, it must appear that the plaintiff is truly representative, and that the court can sufficiently protect those not made parties. *Smith* v. *Williams*, 116 Mass. 510. See 18 HARV. L. REV. 57. Where there are many non-resident claimants, courts sometimes refuse the bill. See *Smith* v. *Williams*, *supra*. The New York court, however, rightly decides that in the present case the existence of non-resident claimants, who may be excluded by an exhaustion of the fund through suits at law by those first learning of the embezzlement, is an argument for rather than against equitable interference.

EQUITY — JURISDICTION — UNFAIR COMPETITION. — A brought a bill in equity alleging that A, B, and C were competing expressmen; that D published a "Pathfinder" purporting to contain a full list of expressmen in that vicinity; that B and C by false statements and threats of injury to D's business induced him to omit any reference to A's business, thus damaging A. A therefore sought to have D enjoined from publishing the "Pathfinder" without A's name, and B and C from attempting to procure such publication. *Held*, that the bill is not demurrable. *Davis* v. *New England Railway Publishing Co.*, 89 N. E. 565 (Mass.).

The omission of the plaintiff's name from what purports to be a complete list of expressmen is equivalent to an assertion that he is not in the business. The Massachusetts court paid scant attention to the bearing on this case of the rule that equity will not enjoin a libel. The weight of American authority supports that rule, although it seems wrong on principle. See 16 HARV. L. REV. 67. But such a statement as this is not technically a libel, because it is not defamatory. Yet if consciously false, intended to damage and actually causing damage, it is actionable. *Ratcliffe* v. *Evans*, [1892] 2 Q. B. 524. Equity jurisdiction as to B and C may be based on the analogy of labor boycotts. The combination of B and C by threats to influence D's conduct, and through him the conduct of A's prospective customers toward A resembles a secondary rather than a primary boycott, and even without falsehood would probably be at least a *primâ facie*